

DOHERTY GEORGESON KERLEY LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901
(415) 453-2300

FRANCIS X. DOHERTY (52329)
J. EDWARD KERLEY (175695)
DOHERTY GEORGESON KERLEY LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901
(415) 453-2300
(415) 455-0270 Facsimile

ATTORNEYS FOR PLAINTIFF
LA VELDA SINGLETON dba
LOVE AND CARE PRESCHOOL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

LA VELDA SINGLETON dba LOVE
AND CARE PRESCHOOL,

Plaintiff,

v.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT,

Defendant.

Case No.: C 08-1852 CW

**DECLARATION OF FRANCIS X.
DOHERTY IN OPPOSITION TO
TRAVELERS' RULE 12 MOTIONS**

Date: May 22, 2008
Time: 2:00 p.m.
Courtroom 2

1. I am an attorney licensed to practice before all courts and a partner in the law firm of Doherty Georgeson Kerley LLP, the attorneys for La Velda Singleton.

2. The graveman of Singleton's breach of contract claim is that Travelers breached the insurance contract by denying liability for ordinance and code upgrades costing over \$270,000.

3. A true and correct copy of Mike Baker's February 9, 2006, letter to Singleton ordering the demolition of her school is attached and identified as Exhibit A.

4. A true and correct copy of Kevin Dawson's July 10, 2007, letter to the Hon. William Cahill, Ret. reporting the death of Steven Tilghman is attached and identified as Exhibit B.

DOHERTY GEORGESON KERLEY LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901
(415) 453-2300

1 5. A true and correct copy of a letter from Judge Westerfield's office setting
2 forth that the mediation took place on November 28, 2007, is attached and identified as
3 Exhibit C.

4 6. A true and correct copy of the last letter Travelers sent to Singleton, dated
5 December 21, 2007, indicating a willingness to engage in further mediation is attached
6 and identified as Exhibit D.

7 7. A true copy of Coast Construction Company's estimate for code
8 improvements in the amount of \$22,782 is attached and identified as Exhibit E.

9 8. A true and correct copy of Singleton's policy appraiser, Rena Moody's June
10 11, 2007, letter to Judge Cahill indicating Singleton's required code improvements in the
11 amount of \$270,963.50 is attached and identified as Exhibit F.

12 9. On March 3, 2008, I attended a meeting with the fire marshal and building
13 inspectors of the City of Dublin. At that meeting the city officials stated that code
14 improvements which Singleton valued at \$270,963.50 were required to rebuild
15 Singleton's school.

16 10. In the event that the Court finds any inadequacy in the pleadings, Singleton
17 requests that she be given leave to amend the complaint to cure any potential
18 inadequacies that are curable.

19 I declare under the penalty of perjury under the laws of California that the
20 foregoing is true and correct; and, if called as a witness, I could testify competently
21 thereto. Executed on May 1, 2008, at San Rafael, California.

22
23
24 /S/
 FRANCIS X. DOHERTY



CITY OF DUBLIN

100 Civic Plaza, Dublin, California 94568

Website: <http://www.ci.dublin.ca.us>

February 9, 2006

Ms. Lavelda Singleton
8010 Holanda Lane
Dublin, CA 94568

Regarding: 8010 Holanda Lane
Pending Abatement Process

Dear Ms. Singleton:

As we have discussed throughout the past 12 months and as recently as the first week of February 2006, the structure at 8010 Holanda Lane is not structurally sound nor is it habitable, and needs to be demolished. As of today our records indicate a permit has not been pulled to demolish nor construct a new structure. I know your application for a building permit is ready to be issued; however, we are waiting for an approval from DSRSD, Dublin San Ramon Services District.

If there has been no further action on this enforcement case by February 17, 2006, I will have no other choice but to start the abatement process as defined in the DMC, Dublin Municipal Code.

It has always been my intention to help and assist where possible. I will continue to work in that direction, although, I need for you to do whatever is necessary to see that the approval from DSRSD is granted and your building permit is obtained by February 17, 2006.

Should you need to further discuss this matter, you may contact me at (925) 556-4517.

A handwritten signature in black ink, appearing to read "Mike Baker".

Mike Baker
Senior Building Inspector
City of Dublin
Community Development Department

cc: Chris Wilson
Gregory Shreeve

EXHIBIT

A



Professional Insurance Evaluations

2200 Powell Street, Suite 840
Emeryville, California 94608
510/597-0777 • 510/597-1777 (Fax)
www.proadjuster.com

July 10, 2007

Judge William Cahill (Retired)
JAMS
Two Embarcadero Center, Ste. 1500
San Francisco, CA 94111

Via U.S. Mail and Via Facsimile 415/982-5287

RE: JAMS Reference #: 1100049676
Insured: Singleton, La Velda dba Love and Care Preschool
Claim No.: ACH3121
Date of Loss: 11/17/2004
Insurer: Travelers Indemnity Company of Connecticut

Dear Judge Cahill:

It is with regret that I must inform you that the appraiser appointed by Travelers Indemnity Company, Steven Tilghman, has passed away.

We were informed yesterday of such by an attorney in another matter.

As a result, with the pending Correction Petition filed on June 20, 2007 currently unresolved, we would like to propose a protocol that will allow for the fair resolution of this single outstanding issue on the Appraisal of LaVelda Singleton dba Love and Care Preschool vs. Travelers Indemnity Company.

The California Code of Civil Procedure requires that a decision on Correction be issued within 30 days. Because of Mr. Tilghman's untimely demise, we propose to offer a stipulation, to suspend the time for the Panel's decision as of today, July 10, 2007.

We provide the following conditions for said tolling of the 30-day requirement, during the interim, while the stipulation is in effect:

- Travelers Indemnity will agree to this stipulation by Friday July 13, 2007;
- Travelers Indemnity will appoint a replacement appraiser within fifteen (15) days to hear evidence on the items subject to Correction Petition: Building Code & Ordinance, as well as clarification of Emergency Repairs;

EXHIBIT

B

- After appointment of said replacement appraiser, a rehearing will occur within 15 days on the exact issues subject to the Correction Petition;
- The rehearing of evidence will not constitute an opportunity to present new evidence but will be for the purpose of educating the new appraiser and re-educate the Panel on the evidence previously presented on issues subject to the Correction Petition;
- It is our proposal that each party, Travelers Indemnity and Ms. Singleton, have the opportunity to have a rehearing of the evidence on Building Code & Ordinance and the collateral issue of Emergency Repairs, as it relates to the previously issued Appraisal Award;
- After the date for rehearing is set and the evidence submitted, the Panel will have the balance of the 30 days, as required by code, to issue a decision on the correction.

There is no legal obligation for the Petitioner to offer this stipulation, offer a rehearing or to give the Respondent an opportunity to appoint a replacement appraiser; however, given this very unforeseen situation, it is a fair attempt to reasonably resolve the pending request for Correction.

In the alternative, if Travelers Indemnity or their counsel refuses our offer, then we insist that the two remaining members of the Panel meet and confer and issue a decision on the Correction request.

It is well established that only two members of the Panel need sign an Award; if Travelers Indemnity, given the opportunity for a replacement appraiser and rehearing, should refuse our fair and generous efforts the Petitioner's rights should not be jeopardized by said refusal.

In terms of timing, as of this date 20 days has elapsed since our request for a Correction. By tolling the statutory time, until a replacement appraiser is appointed and a rehearing on the evidence occurs, that would provide 10 days to the Panel after the rehearing to act upon our request for Correction.

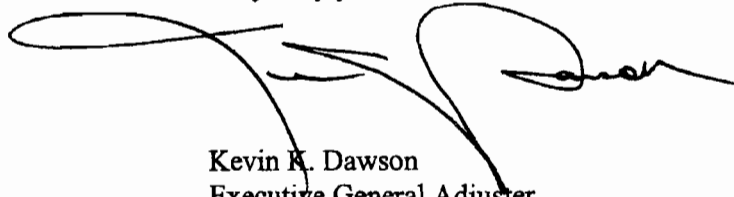
This is a unilateral offer from the insured as we have been unable, to date, to reach agreement on any issue whatsoever with the Respondents; we insist that a response be issued by the Respondent no later than Friday, July 13, 2007; absent a response or acceptance, the Panel must have a decision on our Correction no later than July 19, 2007.

The remainder of the Award: Building Replacement Costs, Actual Cash Value, Debris Removal and Professional Fees, was signed by two Panel members and no objection by Ms. Moody was lodged on those portions of the Award.

Hence, the only outstanding issues, and the subject of our Correction is Building Code & Ordinance and the handling of the Emergency Repair amounts.

Please advise us accordingly, so that we may take the necessary steps to properly protect the rights of Ms. Singleton.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kevin R. Dawson', with a large, sweeping loop on the left side and a smaller loop on the right.

Kevin R. Dawson
Executive General Adjuster
California Insurance License #2C81994

Cc:

Rena Moody, Appraiser

Samuel Ruby, Counsel to Travelers Indemnity

David Goble, Travelers Indemnity



THE RESOLUTION EXPERTS®

April 23, 2008

Francis Doherty, Esq.
Doherty, Georgeson & Kerley LLP
999 5th Avenue
San Rafael, CA 94901

**Re: In re: Love & Care Preschool
JAMS Ref. 1100053082**

Dear Mr. Doherty,

I understand that you currently represent LaVelda Singleton in the above matter. As I explained to your assistant Beth, I am not able to provide you with a copy of the invoice for her mediation last year, since your client was not invoiced for any of the fees.

As Ms. Singleton will attest, a mediation took place on November 28, 2007, before Hon. Rebecca Westerfield (Ret.) here at JAMS.

Sincerely yours,

Anthony R. Sales, Case Manager
HON. REBECCA WESTERFIELD

EXHIBIT

C

01/09/2008 10:07 9254160523

FEDEX KINKOS # 5155

PAGE 02



Allyson Delgado
General Adjuster
Commercial Property—MCU
P.O. Box 55475
Valencia, CA 91385
(661) 290-3352
(661) 290-2960 (fax)

December 21, 2007

La Velda Singleton
Love & Care Preschool
8010 Holanda Lane
Dublin, CA 94568

Re: Insured: Love & Care Preschool
Claim Number: ACH3121
Date of Loss (Reported As): 11/17/2004
Underwriting Company: Travelers Indemnity Company of Connecticut

Dear Ms. Singleton:

We regret that we were unable to resolve the outstanding issues in this claim through mediation.

With respect to the ACV claim, it appears that we continue to disagree over the scope of work that would have been necessary to repair the damage. We understand you believe that the fire rendered the building a total loss. It remains our position that substantial elements of the building were not damaged. As we understand your position, this dispute would not be resolved by any re-appraisal. Rather, each side would present its scope of work, and the panel would simply price those scopes.

We have provided you with a detailed statement of the scope of work that we believe would have been necessary to repair the portions of the building that we found to be damaged. That scope is reflected in the Walter Springs Construction estimate. The cost of that scope of work has been estimated by Walter Springs and Coast Construction. Allowing you the benefit of the doubt, we have paid the ACV claim based on the higher of the two estimates (the Coast estimate). You have never provided any other estimate of the cost of the Walter Springs scope. So, we do not perceive any need for appraisal of the cost of that scope.

We have not received a detailed competing scope of work from you. Although we have received reconstruction drawings and specifications submitted to and approved by the city, those drawings and specifications include various changes to the building's original dimensions, features, and materials. ACV is determined based on the cost to repair or replace "with like kind and quality." If you wish to appraise the ACV of the entire building, please provide drawings and specifications (or a detailed scope of work similar in

EXHIBIT

D

01/09/2008 18:07 9254160523

FEDEX KINKOS # 5155

PAGE 03

Love & Care
12/21/2007
Page 2

format to the Walter Springs scope) reflecting the dimensions, features, and materials of the building as you contend it stood at the time of the fire.

If, despite the unsuccessful mediation, you are interested in exploring a settlement in lieu of appraisal, we would be happy to engage the mediator in further discussions. If you would prefer to return to appraisal, please provide the detailed scope of work that would be appraised at ACV.

It remains our position that no benefits are available under the Replacement Cost and Ordinance or Law coverages until the property is actually repaired or replaced.

Furthermore, we continue to reserve our rights to deny coverage based on the time limits that the policy provides for repair or replacement. Without waiving such rights, we are seeking a meeting with City of Dublin officials to review the outstanding issues concerning the necessary scope of code upgrades. We regret that we were not invited to attend your and/or your representative's meetings with city officials, at which time the issues might have been resolved.

This letter should not be construed as a waiver of any of our rights or your obligations under the policy or the law.

Thank you.

Sincerely,


Allyson Delgado
General Adjuster

CC: Kevin Dawson

COAST CONSTRUCTION CO.

716 KENNEDY ST.
OAKLAND, CA. 94606
510.533.7168 FAX 510.536.4784
LIC # 826164

Client: Love & Care Preschool

Property: 8010 Holanda Lane
Dublin, CA 94568

Operator Info:

Operator: SM

Estimator: STEPHEN MINK

Business: (510) 533-7168

Business: 718 Kennedy Street
Oakland, CA 94606

Type of Estimate: Fire

Dates:

Date Entered: 04/10/2007

Price List: CAEB4B7A

Restoration/Service/Remodel

Estimate: LOVEANDCARECODE

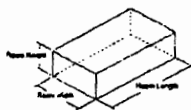
EXHIBIT E

COAST CONSTRUCTION CO.

716 KENNEDY ST.
 OAKLAND, CA. 94606
 510.533.7168 FAX 510.536.4784
 LIC # 826164

LOVEANDCARECODE

Room: Code



DESCRIPTION	QNTY	REMOVE	REPLACE	TOTAL
DWELLING				
Estimate for code work per Hasenin Report of 3-9-07	1.00 EA	0.00	18,985.00	18,985.00
AREA Dwelling Totals:				18,985.00
Room Totals: Code				18,985.00
Dwelling Totals:				18,985.00
Line Item Totals: LOVEANDCARECODE				18,985.00

Grand Total Areas:

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls and Ceiling
0.00 SF Floor	0.00 SY Flooring	0.00 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	0.00 LF Ceil. Perimeter
0.00 Floor Area	0.00 Total Area	0.00 Interior Wall Area
0.00 Exterior Wall Area	0.00 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

COAST CONSTRUCTION CO.

716 KENNEDY ST.
 OAKLAND, CA. 94606
 510.533.7168 FAX 510.536.4784
 LIC # 826164

Summary for Fire

Dwelling				18,985.00
Line Item Total				18,985.00
Overhead	@	10.0% x	18,985.00	1,898.50
Profit	@	10.0% x	18,985.00	1,898.50
Replacement Cost Value				22,782.00
Net Claim				22,782.00

 STEPHEN MINK

COAST CONSTRUCTION CO.

716 KENNEDY ST.
OAKLAND, CA. 94606
510.533.7168 FAX 510.536.4784
LIC # 826164

Recap by Room

Estimate: LOVEANDCARECODE

Code	18,985.00	100.00%
<hr/>		
Subtotal of Areas	18,985.00	100.00%
<hr/>		
Total	18,985.00	100.00%

COAST CONSTRUCTION CO.

716 KENNEDY ST.
 OAKLAND, CA. 94606
 510.533.7168 FAX 510.536.4784
 LIC # 826164

Recap by Category

O&P Items				Total Dollars	%
SPECIALTY ITEMS				18,985.00	83.33%
Subtotal				18,985.00	83.33%
Overhead	@	10.00%		1,898.50	8.33%
Profit	@	10.00%		1,898.50	8.33%
O&P Items Subtotal				22,782.00	100.00%
Grand Total				22,782.00	



RENA MOODY
7300 Real Quiet Drive
Las Vegas, Nevada 89131
Tele: 702/656-6949
Fax: 702/656-8776

June 11, 2007

Judge William Cahill (Retired)
JAMS
Two Embarcadero Center, Ste. 1500
San Francisco, Ca. 94111

Via Fax: 415/982-5287

Re: Appraisal of Insurance Claim
Love & Care Preschool v. Travelers

Dear Judge Cahill:

This will acknowledge receipt of the Appraisal of Insurance Claim Award signed by you on June 6, 2007. I have not signed the award. I am in disagreement with the award of \$22,782.00 for Building Code & Ordinance. It is still my position that evidence submitted during the appraisal hearing supports the insured's claim of \$270,963.50 for Building Code & Ordinance.

Sincerely,



Rena Moody
Appraiser

EXHIBIT F